

Message Text

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ACTION L-03

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CINCPACREP PASS TO HICOM AND STATUS LNO TRENT SAIPAN

E.O. 11652: N/A

TAGS: TSPA, PFOR, JA, US, TQ, MARR

SUBJECT: JAPANESE DOWN-RANGE TRACKING STATION

REF: A) STATE 001498, B) TOKYO 16711, C) STATE 235876 (NOTAL)

SUMMARY: FONOFF HAS INDICATED THAT REQUIREMENT THAT ARRANGEMENT FOR DOWN-RANGE TRACKING STATION TAKE FORM OF GOVERNMENT-TO-GOVERNMENT AGREEMENT CREATES SUBSTANTIAL PROBLEM FOR GOJ. PROBLEM ARISES FROM FACT THAT NASDA, ALTHOUGH A PUBLIC CORPORATION, IS LARGELY INDEPENDENT OF GOVERNMENT CONTROL.. THUS, AGREEMENT IN WHICH GOJ ASSUMES OBLIGATIONS OR ACCEPTS CONDITIONS WHICH IN FACT MUST BE CARRIED OUT BY NASDA MAY BE LEGALLY INCONSISTENT. SEVERAL ADDITIONAL TECHNICAL QUESTIONS ALSO RAISED. ACTION REQUESTED: CONSIDER POSSIBLE ALTERNATIVES TO PROPOSED LANGUAGE CALLING FOR INTERGOVERNMENTAL AGREEMENT AND PROVIDE RESPONSES TO ADDITIONAL TECHNICAL QUESTIONS. END SUMMARY.

1. SCICOUNS DISCUSSED DRAFT OF US NOTE WITH FONOFF OFFICIALS (YOSUKE YOSHINAKA, SCIENCE AFFAIRS DIVISION, UNITED NATIONS LIMITED OFFICIAL USE

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BUREAU, AND TAKEKAZU KAWAMURA, TREATIES DIVISION, TREATIES BUREAU).

ACCORDING TO KAWAMURA, AUGUST 1973 CABLE FROM JAPANESE EMBASSY WASHINGTON HAD SAID THAT NO INTERGOVERNMENTAL AGREEMENT WOULD BE REQUIRED TO PERMIT TRACKING STATION USE AT KWAJALEIN. THUS, RECENT USG DETERMINATION THAT "INTER-GOVERNMENTAL" AGREEMENT NECESSARY HAS LED TO UNEXPECTED DIFFICULTY. EMBASSY WOULD APPRECIATE LEARNING REASONS REQUIRING INTERGOVERNMENTAL AGREEMENT, FOR ITS OWN INFORMATION AND ADVICE TO GOJ, IF APPROPRIATE.

2. TO RESOLVE PROBLEM, STATUS OF INTERGOVERNMENTAL AGREEMENT CAN BE AVOIDED. KAWAMURA SUGGESTED THIS COULD BE ACCOMPLISHED BY SUBSTITUTING LANGUAGE ALONG FOLLOWING LINES FOR NEXT-TO-LAST PARAGRAPH IN US NOTE: QUOTE THE EMBASSY HAS FURTHER THE HONOR TO CONFIRM THAT IT IS THE UNDERSTANDING OF THE GOVERNMENT OF THE UNITED STATES THAT THE GOVERNMENT OF JAPAN HAS NO OBJECTION TO THE FACT THAT THE GOVERNMENT OF THE UNITED STATES WILL PERMIT NASDA TO LOCATE A TRACKING STATION ON KWAJALEIN SUBJECT TO THE CONDITIONS NOTED ABOVE. END QUOTE.

3. ANOTHER ALTERNATIVE DISCUSSED, WHICH NOT NECESSARILY ACCEPTABLE TO GOJ, BUT WHICH WOULD SEEM TO AVOID PROBLEM OF LACK OF AUTHORITY TO CONTROL NASDA, WHILE PRESERVING AGREEMENT'S STATUS AS EXCHANGE OF NOTES, IS AS FOLLOWS: QUOTE IF GOJ IS PREPARED TO AUTHORIZE NASDA TO UNDERTAKE THESE ACTIVITIES SUBJECT TO THE FOREGOING CONDITIONS, THE MINISTRY'S NOTE TO THAT EFFECT ETC. END QUOTE.

4. FONOFF REPS STRESSED, AND EMBASSY IS FULLY SATISFIED, THAT PROBLEM DESCRIBED ABOVE IS A PURELY FORMAL ONE. NASDA IS IN FACT AN ARM OF JAPANESE GOVERNMENT WHICH WOULD FULLY ABIDE BY CONDITIONS OF AGREEMENT. ONLY PROBLEM IS ITS AUTONOMOUS LEGAL STATUS, WHICH MAKES IT INDEPENDENT OF JAPANESE GOVERNMENT DIRECTION EXCEPT IN MATTERS OF OVERALL POLICY. EMBASSY ASSUMES THAT U.S. NEED FOR INTERGOVERNMENTAL AGREEMENT IS RELATED TO STATUS OF TRUST TERRITORY AND NOT TO CONCERN THAT SPECIFIC CONDITIONS (WHICH U.S. CAN UNILATERALLY ENFORCE IN ANY EVENT) MUST BE GOVERNMENTALLY GUARANTEED. IF THIS ASSUMPTION CORRECT, FORMULATION OF PARA THREE SHOULD MEET U.S. REQUIREMENT.

5. FOLLOWING TECHNICAL QUESTIONS, IN ADDITION TO THE TWO RAISED IN REF (B), ALSO POSED BY YOSHINAKA.

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A) DO FUNCTIONS OF "DOWN-RANGE LAUNCH-VEHICLE TRACKING STATION" MENTIONED IN PARA ONE OF NOTE INCLUDE APPROVAL TO RECEIVE TELEMETRY FROM VEHICLE AND TRANSMIT COMMAND SIGNALS?

B) WILL THERE BE ANY CUSTOMS DUTIES ON PERSONAL EFFECTS OF JAPANESE TECHNICAL PERSONNEL?

C) WILL ASSIGNMENT OF RADIO FREQUENCIES FOR TRACKING STATION

PROVIDE ASSURANCE AGAINST POSSIBLE INTERFERENCE BY OTHER TRANSMITTERS ON ISLAND? RESPONSES TO THESE ADDITIONAL QUESTIONS, AS WELL AS HICOM CONFIRMATION OF RESPONSE IN REF (A) WOULD BE APPRECIATED AS SOON AS POSSIBLE.

6. YOSHINAKA POINTED OUT THAT NAMES OF SATELLITES, MENTIONED IN FIRST PARA OF NOTE, HAD BEEN CHANGED. CORRECT NAMES ARE "ENGINEERING TESTING SATELLITE" (WITHOUT ROMAN NUMERAL I) AND "IONOSPHERE SOUNDING SATELLITE (NOT IONOSPHERIC). YOSHINAKA ALSO TOOK OCCASION TO SAY THAT FONOFF REGARDED CONDITION FIVE (IN PARA TWO OF US NOTE) AS "VERY HARSH," BUT DID NOT REQUEST ITS MODIFICATION OR RECONSIDERATION.

7. YOSHINAKA ALSO NOTED THAT STA WANTED TO APPOINT AN OFFICIAL FOR LIAISON WITH US SIDE AFTER ARRANGEMENT GOES INTO EFFECT. HE EXPRESSED HOPE THAT US WOULD RECIPROCATATE. SCICOUNS SAID THIS ALWAYS A GOOD IDEA, AND, NOTED THAT, BECAUSE STA IS A GOVERNMENTAL AGENCY, THIS PROVIDED MORE GROUNDS FOR GIVING EXCHANGE STATUS OF INTERGOVERNMENTAL AGREEMENT. SHOESMITH

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